

MDR Tracking Number: M5-04-3452-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on May 24, 2004.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity. The office visits from 09-26-03 through 03-01-04 were found to be medically necessary. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this Order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 07-19-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Max. Allowable Reimbursement)	Reference	Rationale
04-12-04	99214	\$99.44	\$0.00	No EOB	\$61.98	Medicare Fee Schedule, Rule 134.202 (d)	Review of the requestor and respondent's documentation revealed that neither party submitted copies of the EOB's, however, review of the recon HCFA reflected proof of submission. Therefore, the disputed services will be reviewed according to the Medicare Fee Schedule. Recommend reimbursement of \$44.15
TOTAL		\$99.44					The requestor is entitled to reimbursement of \$44.15.

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) and in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (b); plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable for dates of service 09-26-03 through 04-12-04 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 8th day of October 2004.

Patricia Rodriguez
Medical Dispute Resolution Officer
Medical Review Division

PR/pr

Amended Independent Review Decision

September 8, 2004

David Martinez
TWCC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

Patient:
TWCC #:
MDR Tracking #: M5-04-3452-01
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Medical Doctor with a specialty in Neurological Surgery. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

___ was injured on ___ at work while he was lifting. He was treated with conservative measures at the time and after extensive treatment with conservative measures with only intermittent relief he eventually underwent surgical treatment for his lumbar herniated disc in 5-2002. His symptoms were relieved somewhat with the surgery although he did continue to have some intermittent problems. Appropriate conservative measures were undertaken as well as further imaging studies postoperatively that showed that there was scar tissue present, as well as possibly a small amount of disc herniation but definitely an improvement from the preoperative study. His symptoms remain consistent with back and left-sided radicular complaints as he had preoperatively; however, his symptoms had improved and that his ability to work was improved with the surgery. The patient was consistently seen throughout the remainder of 2002 and into 2003. He was able to work but at times he had a flare-up of his symptoms and they were related by the treating physician to his injury that he sustained that required surgery. I believe that this was an appropriate relational fact. He is continuing under the treatment of his treating surgeon as recently as 6-16-2004.

DISPUTED SERVICES

The items in dispute are the retrospective medical necessity of office visits from 9-26-2003 through 3-01-2004.

DECISION

The reviewer disagrees with the previous adverse determination.

BASIS FOR THE DECISION

The reviewer states that ___ was treated with conservative measures. It was left up to the patient regarding treatment of the symptoms. Specifically on 6-24-2003 the patient had an intramuscular Kenalog injection and it was discussed with him that should the symptoms recur

he should re-contact them. The patient returned on 9-26-2003 saying that there was no relief from the previous injection and that his pain was bothering him and causing him difficulty with working. The office visit on this date would be reasonable, necessary and appropriate. Considerations were undertaken and appropriate recommendations were made at that time. The reviewer states that this office visit was appropriate.

The patient was then sent for some epidural injections and was also followed up in the office. Also, recommendations were made for physical therapy. It is not clear exactly what the course of treatment was after the office visit on 11-24-2003 where Dr. T related his persistent symptoms to his on the job injury of ___, but it does appear that the patient then re-contacted his treating physician on 3-01-2004. Apparently, this office visit is under dispute as well. Based on review of this office visit, it would appear that the patient was continuing to have symptomatology despite the course of treatment that was undertaken in October and November of 2003. With the patient's persistent symptoms it was reasonable and necessary that the patient have an office visit on 3-01-2004. All efforts were made to manage this on an outpatient basis and only at times when it was reasonable and necessary.

It would appear that follow-up office visits from 9-26-2003 through 3-01-2004 were both reasonable and necessary. Appropriate treatments were undertaken prior to, between and after those office visits.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,